



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-7000

OFFICE OF COMMUNITY PLANNING
AND DEVELOPMENT

December 12, 2012

To: Round II Empowerment Zones (EZ) and Renewal Communities (RC)
From: Office of Community Renewal, U.S. Dept. of Housing and Urban Development
Subject: Opportunities for EZ and RC Businesses to take Advantage of Unused EZ/RC Employment Credits

Opportunities for Businesses located in an Empowerment Zone (EZ) or Renewal Community (RC)

The Department of Housing and Urban Development (HUD) encourages businesses located in the 30 EZs and 40 RCs across the nation to take advantage of unused tax credits called the EZ Employment Credit and the RC Employment Credit. These credits are only available to businesses having worksites located in federally designated areas and that have hired employees residing in designated areas. Unused tax credits are also available to the EZ/RC business for employees who are no longer employed by that business provided the former employee has met the specific tenure requirements. The application of the tenure requirements means that the employment credits are available for both part-time and full-time employees as long as they have been employed by the employer for at least 90 days.

Even though the EZ/RC programs have expired, there is still an opportunity to take advantage of the unused EZ and RC Tax Credits, but there is a limited time for businesses to seize upon this opportunity. The tax credit is worth up to \$3,000 per EZ resident and up to \$1,500 per RC resident employed by an eligible EZ/RC business. An unused tax credit that has been earned in recent years that goes unclaimed can never be recovered. Simply stated an EZ/RC business can generate a refund check by amending its prior year tax returns. As of September 2012, an EZ and RC business has less than 6 months to amend its tax return for 2009.

The attached sheet illustrating examples of unused tax credits was developed with the tax professional in mind, specifically those who are responsible for preparing the federal tax returns of an EZ or RC business. We have also included the name, email and telephone number of the Treasury official most familiar with the provisions of the carryback and carryover of the employment credits. The contact information is exclusively for the convenience of the tax professional who desires a better grasp of the carryover and carryback provisions and/or has questions about the examples and need greater detail on the application of these provisions.

Inquiries from EZ/RC grantees and their business community, should be addressed directly to Coalition member Carl Friend. He can be reached at carlfriend@live.com. His alternate email is carlfriendezrcec@gmail.com. For information regarding this HUD announcement, please feel free to email Pamela Glekas, Director of the Office of Community Renewal, at Pamela.Glekas@HUD.gov.

EXAMPLES OF THE APPLICATION OF THE CARRYOVER OF EZ EMPLOYMENT CREDITS

EXAMPLE 1

Facts: Taxpayer was formed in 2008. It earned an empowerment zone employment credit of \$100x in 2008 (the “source year”). However, due to an error the Taxpayer did not claim the credit in that year. Taxpayer had tax liability of \$40x in 2008. The \$40x was less than the limitation in Internal Revenue Code (IRC) section 38(c). For the tax years 2009, 2010, and 2011 Taxpayer had tax liability of \$20x each year. Under the IRC, credit that is not fully utilized against tax in the source year is carried back 1 year and carried forward for the following 20 years until it is all absorbed.

Result: The 2008 tax year is a “closed year” meaning that the Taxpayer cannot file an amended return for that year because it is barred by the statute of limitations. However, because the Taxpayer could have used \$40x of the credit in 2008, it must reduce its carryover amount by that \$40x amount leaving \$60x that it may carryover and use against its tax liability in 2009, 2010, and 2011 tax years.

EXAMPLE 2

Facts: The facts are the same as Example 1 except that the taxpayer was formed in 2007. Taxpayer also had tax liability of \$20x for the 2007 tax year which is less than the limitation in IRC 38(c).

Result: Both the 2008 and 2007 tax years are closed years. Under the rules for carrybacks and carryovers, the Taxpayer must again reduce the \$100x credit by the \$40x it could have utilized in the source year of 2008. Because any unused credit in the source year must first be carried back one year (before it can be carried forward), the Taxpayer must also reduce the \$100x credit by the \$20x that it could have utilized in the 2007 tax year leaving Taxpayer with a carry forward amount of \$40x that it can use against its tax paid in the years 2009 and 2010.

EXAMPLE 3

Facts: Taxpayer was formed in 2009 and earned a credit of \$100x in that year but failed to claim it on its 2009 income tax return. Taxpayer had tax liability of \$120x for that year which was below the limitation in IRC 38(c).

Result: Because the 2009 tax year is an “open year” (that is, it is not barred by the statute of limitations), Taxpayer can simply file an amended return for that year to claim the full \$100x credit for the 2009.

Note: The same results would be obtained for the Renewal Community employment credit as in the above Empowerment Zone examples keeping in mind, however, that the RC credit expired on December 31, 2009; whereas, the EZ credit expired on December 31, 2011.

Contact Information: Tax professionals responsible for preparing the federal tax returns of Empowerment Zones and Renewal Communities, who need further information regarding the carryback or carryover of the credit, should contact Patrick T. McGroarty, IRS Counsel at (202) 622-4142. For questions about qualification for the EZ/RC credits, taxpayers should call the IRS at (202) 622-6080.